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CERTIFICATE OF MAILING (37 CFR 1.8(a))



I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Todd R. Tucker

(Type or print name of person mailing paper)

Date: 2/28/02

Todd R. Tucker

(Signature of person mailing paper)

TRUSP0105USA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

James L. Baratucci

Serial No. 10/004,365

Filed: November 1, 2001

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Group Art Unit:

Examiner:

For: RIBBED TUBE CONTINUOUS FLEXIBLE SPACER ASSEMBLY

PETITION UNDER 37 C.F.R. 1.47

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OFFICE OF PETITIONS

Commissioner for Patents
Washington, D.C. 20231

Sir:

A petition hereby is made to accept the filing date of this application by one who is a joint inventor. This petition is supported by the following enclosures:

(1) Declaration of Facts in Support of Filing on Behalf of Omitted Inventor;
and


(2) Combined Declaration and Power of Attorney by joint inventor on behalf of omitted inventor who refuses to sign.

The Commissioner is hereby authorized to charge any additional fees for the filing of this document to deposit account #18-0988.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, P.L.L.

By:



Todd R. Tucker, Reg. No. 40,850

1621 Euclid Avenue
Nineteenth Floor
Cleveland, Ohio 44115
(216) 621-1113



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT application of:

Applicant: James L. Baratuci

Serial No.: 10/004,365

Filed: 11/01/2001

Title: RIBBED TUBE CONTINUOUS FLEXIBLE SPACER ASSEMBLY

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**DECLARATION OF FACTS IN SUPPORT OF FILING
ON BEHALF OF OMITTED INVENTOR (37 C.F.R. 1.47)**

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I, James L. Baratuci, am a joint inventor of U.S. Patent Application Serial No.10/004,365 filed November 1, 2001. The application names Patrick A. Drda, Steven M. Milano, Theo J. van de Pol and myself as co-inventors.

1. In the fall of 2000, I informed Theo J. van de Pol that he was an inventor on a patent application being filed by TruSeal Technologies, Inc. ("TruSeal"). TruSeal is the assignee of all rights to the inventions described in this application. TruSeal acquired these inventions when it purchased the entire insulating glass business from Tremco, Inc. The inventions in this application were an asset of that business. Mr. van de Pol's contribution to these inventions had been performed during his employment with Tremco, and he had an obligation to assign these inventions to Tremco. Mr. van de Pol continued to be employed by Tremco until June 1, 2001.

2. TruSeal filed this application as a provisional patent application on November 8, 2000. I sent a copy of this application and a Combined Declaration and Power of Attorney to Mr. van de Pol on November 8, 2000 via Federal Express. At this time I also requested Mr. van de Pol review the application in preparation for filing a utility patent application and executing the Combined Declaration and Power of Attorney. Mr. van de Pol refused to execute the Combined Declaration and Power of Attorney.

3. From the winter of 2000 through spring of 2001, Mr. van de Pol and I had several telephone discussions with Mr. van de Pol requesting he execute the Combined Declaration and Power of Attorney. Mr. van de Pol refused, on the advice of his attorney, stating he had general rights to the invention in Europe. Mr. van de Pol claimed to have a so-called "general release" from Tremco that warranted his refusal to execute the Combined Declaration and Power of Attorney. Mr. van de Pol refused to give TruSeal a copy of this "release".

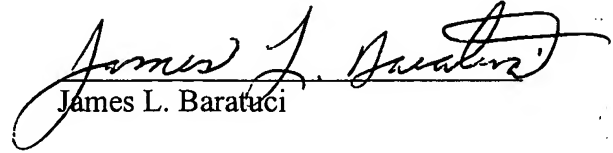
4. In June of 2001, TruSeal contacted Tremco and requested copies of the Mr. van de Pol's "release" and any other employment records. TruSeal also inquired about the conditions of Mr. van de Pol's "release". Tremco refused to provide these documents and any information about the conditions of the release.

5. Finally, in preparation for filing of the utility patent application claiming priority from the provisional, on August 13, 2001, I again sent Mr. van de Pol the application along with the Combined Declaration and Power of Attorney. I have since had several conversations with Mr. van de Pol several times requesting he execute the Combined Declaration and Power of Attorney. He again refused to sign. Mr. van de Pol has continually indicated that his refusal to sign is based on advice from his attorney.

I hereby declare that all statements made herein of my own knowledge are true or that the statements made on information are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like

so made are punishable by fine or imprisonment, or both under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereto.

Date: 2-27-02


James L. Baratuci

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COMBINED DECLARATION AND POWER OF ATTORNEY
(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Title: **RIBBED TUBE CONTINUOUS FLEXIBLE SPACER ASSEMBLY**

the specification of which

☒ is attached hereto, or☐ was filed as United States
Application or PCT International
Application (*give Express Mail
label number and deposit date if
Application number not yet
known*):Application No.:
(*Express Mail Label No.*)
Filing Date:
(*Deposit Date*)
Amended on (*if applicable*):

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability as defined in Title 37, Code of Federal Regulations § 1.56(a).

CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S) UNDER 35 U.S.C. 120

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of 35 USC 112, I acknowledge the duty to disclose material information as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

Application No.	Filing Date	Patent Number

CLAIM FOR BENEFIT OF EARLIER U.S. PROVISIONAL APPLICATION(S) UNDER 35 U.S.C. 119(e)

I hereby claim the benefit under 35 USC 119(e) of any United States provisional application(s) that is/are listed below

Application No.	Filing Date
60/246,865	November 8, 2000

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POWER OF ATTORNEY

As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (List name and registration number)

Name	Registration No.	Name	Registration No.
Todd R. Tucker	40,850	Don W. Bulson	28,192

Send Correspondence To:

Todd R. Tucker
Renner, Otto, Boisselle & Sklar, LLP
1621 Euclid Ave. - 19th Floor
Cleveland, Ohio 44115

Direct Telephone Calls To:

Name: Todd R. Tucker
Tel. No: 216/621-1113
Fax No: 216/621-6165

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued therein.

Full Name of Sole or First Inventor: James Lynn Baratuci			
Inventor's signature:	<i>James Lynn Baratuci</i>	Date:	10-26-01
Residence: (City & State/Country):	Stow, Ohio	Citizenship:	USA
Post Office Address:	3840 Kenwood Drive, Stow, Ohio 44224		

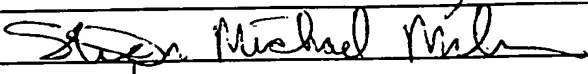
Full Name of Additional Joint Inventor (if any): Patrick Anthony Drda			
Inventor's signature:	<i>Patrick Anthony Drda</i>	Date:	10/26/01
Residence: (City & State/Country):	Lyndhurst, Ohio	Citizenship:	USA
Post Office Address:	1187 Irene Road, Lyndhurst, Ohio 44124		

CHECK FOR ANY OF THE FOLLOWING ADDED PAGES(S) WHICH
FORM A PART OF THIS DECLARATION

☒ Signature for third and subsequent joint inventors. Number of pages added 1.
☐ Added page to combined declaration and power of attorney for divisional, continuation, or continuation-in-part (CIP) application.

☐ This declaration ends with this page.

C:\154\TRT\TRUSP105us\Combined Decl. & POA.wpd

Full Name of Sole or First Inventor: Steven Michael Milano			
Inventor's signature:		Date:	10/26/01
Residence: (City & State/Country):	Aurora, Ohio	Citizenship:	USA
Post Office Address:	10104 CrowsNest Cove, Aurora, Ohio 44202		

Full Name of Additional Joint Inventor (if any): Theo J Van de Pol			
Inventor's signature:		Date: -	
Residence: (City & State/Country):	Netherlands	Citizenship:	
Post Office Address:	Eperweg 34, 8181 Ew Heerde		